

A New Castle City Board of Adjustment Hearing took place on August 19, 2008 at 7 p.m. in the City of New Castle's Town Hall.

Present: John F. Klingmeyer, Mayor
David Athey, City Engineer
Roger Akin, City Solicitor

Mayor Klingmeyer called the meeting to order at 7 p.m.

The Mayor read the Notice of Public Hearing that states, "An application has been filed by James Berman, 527 Cherry Street, New Castle, for approval of structural alterations to permit the enlargement of a legally existing non-conforming structure (by construction of a 16 foot wide by 20 foot deep two story rear addition) on property located at 527 Cherry Street, New Castle, Delaware, known as Tax Parcel Number #2101510043. The proposed addition will not increase the extent of any existing non-conforming addition for front yard or side yard setbacks and will comply with rear yard and building bulk requirements.

For the purpose of considering this application, the Board of Adjustment will hold a public hearing on Tuesday, August 19, 2008, at 7 p.m. in Old Town Hall, 2nd Floor, located at 2nd and Delaware Street, New Castle, Delaware."

An affidavit of publication was published in the News Journal on August 4, 2008 and in the New Castle Weekly on August 6, 2008.

City Building Inspector Mr. Bergstrom confirmed the property has been properly posted and provided a brief review of the application.

(Mr. Berman was sworn in.)

The applicant is seeking to increase the building's bulk within the legal limits. Mr. Berman has discussed this project with his neighbors and has not received any negative comments.

The floor was opened to the audience for questions/comments. None were raised.

Mr. Akin made a motion to approve the application that is being presented this evening. His reasoning is that under Section 230-9 of the zoning code, this Board has the legal authority to grant enlargement of a legally existing non-conforming structure providing there is no increase in any current existing violations of setback requirements under the City code. Section 230-9 (A) instructs this Board to apply principles found in 230-57 of the zoning code. Under Section 230-57 (D) the Board is required to apply certain standards when considering requests for approval of structural alterations by way of enlargement. Mr. Berman stated under oath that there is no opposition to this project and a hardship has been established (2 bedrooms, 1 bath, 3 children). Section 230-57 (D) also permits the Board to apply the doctrine of natural expansion recognizing that many structures were originally built to dimensions which become restrictive for modern families. This proposal has not shown that it is contrary to the public welfare, safety or health of others in the City.

Board of Adjustment Hearing—Berman
August 19, 2008
Page 2

Mr. Athey seconded the motion and voted in favor citing the City Solicitor's rationale. Prior to casting his vote he questioned if the Historic Area Commission (HAC) needs to be involved. Mr. Bergstrom informed that this project is outside HAC's jurisdiction.

Mayor Klingmeyer voted in favor citing the City Solicitor's rationale and explained that this is one of the requirements when the City adopted the zoning code.

The motion was approved by unanimous vote (3-0).

The hearing was adjourned at 7:15 p.m.

Respectfully submitted,

Debbie Turner
Stenographer